

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON  
PORTLAND DIVISION

**MICHAEL MORRIS,**

Petitioner,

v.

**JEFF PREMO,**

Respondent.

No. 3:11-cv-00394-AC

OPINION AND ORDER

**MOSMAN, J.,**

On April 20, 2012, Magistrate Judge Acosta issued Findings and Recommendation (“F&R”) [26] in the above-captioned case recommending that I deny petitioner’s Petition for Writ of Habeas Corpus [2]. Petitioner filed objections [28].

**STANDARD OF REVIEW**

The magistrate judge makes only recommendations to the court, to which any party may file written objections. The court is not bound by the recommendations of the magistrate judge, but retains responsibility for making the final determination. The court is generally required to make a de novo determination of those portions of the report or specified findings or recommendation as to which an objection is made. 28 U.S.C. § 636(b)(1)(C). However, the court is not required to review, under a de novo or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the F&R to which no objections are addressed. *See Thomas v. Arn,*

474 U.S. 140, 149 (1985); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003).

While the level of scrutiny under which I am required to review the F&R depends on whether or not objections have been filed, in either case, I am free to accept, reject, or modify any part of the magistrate judge's F&R. 28 U.S.C. § 636(b)(1)(C).

### **DISCUSSION**


Petitioner raises six objections to Magistrate Judge Acosta's F&R and relies on his Brief in Support of Petition for Writ of Habeas Corpus [23] in support. I have reviewed petitioner's legal arguments and find them unpersuasive, although I note that his conviction for murder was February 13, 1995, as opposed to February 15, 1999. (*See* Exhibits [19–1] 11).

### **CONCLUSION**

Upon review, I ADOPT Judge Acosta's F&R [26] as my own. Petitioner's Petition for Writ of Habeas Corpus [2] is DENIED.

IT IS SO ORDERED.

DATED this 22 day of May, 2012.

  
MICHAEL W. MOSMAN  
United States District Court